

## **Title 19 – DEPARTMENT OF HEALTH and SENIOR SERVICES**

### **Division 30 – Division of Regulation and Licensure**

#### **Chapter 62 – Licensing Rules for Group Child Care Homes and Child Care Centers**

##### **EMERGENCY AMENDMENT**

**19 CSR 30-62.082 Physical Requirements of Group Day Care Homes and Day Care Centers.** The department is amending subsection (1)(K).

*PURPOSE: This amendment specifies that smoking is prohibited in areas where children are cared for in a group child care home or child care center as recommended by the American Academy of Pediatrics Task Force on Sudden Infant Death Syndrome for a safe infant sleeping environment.*

*EMERGENCY STATEMENT: According to the Centers for Disease Control and Prevention, Sudden Infant Death Syndrome (SIDS) was the fourth leading cause of death for infants in 2013. Approximately one hundred (100) Missouri infants die as a result of SIDS each year. In 2014, an infant in a licensed child care facility died as a result of SIDS after a weighted blanket was placed over the child's legs when he was lying face down. As a result, the Missouri legislature promulgated Section 210.223.6, RSMo, as part of HCS for SCS for SB 341, 98<sup>th</sup> General Assembly, First Regular Session (2015). The bill authorizes the Department of Health and Senior Services (DHSS) to promulgate emergency rules to implement safe sleep practices as recommended by the American Academy of Pediatrics (AAP) for licensed child care facilities. The AAP Task Force on SIDS has made safe sleep recommendations for infants to help reduce the risk of SIDS. The AAP has recommended that child care providers not smoke in child care areas since infants have a higher risk of SIDS if they are exposed to secondhand smoke. Secondhand smoke can cause other health problems in infants and children such as more frequent and severe asthma attacks, respiratory infections and ear infections. As a result, this emergency amendment is necessary to protect the health of children in child care settings, and to implement safe sleep practices as recommended by the AAP in group child care homes and child care centers in order to reduce the risk of SIDS. The DHSS finds an immediate danger to the public health, safety, and/or welfare and a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The DHSS believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed November 10, 2015, becomes effective November 20, 2015, and expires May 17, 2016.*

(1) General Requirements.

- (A) The premises shall be safe and suitable for the care of children.
- (B) The premises shall conform to the fire and safety requirements of the State Fire Marshal or his/her designee and requirements for state or local zoning, building and sanitation.
- (C) Children shall have no access to areas not approved for child care.
- (D) Stairways in approved child care space shall be well-lighted and free of obstructions. Stairways in approved child care space having more than three (3) steps shall have a handrail the children can reach.
- (E) Porches, decks, stairwells or other areas in approved child care space having a drop-off of more than twenty-four inches (24") from which children might fall and be injured shall have an approved railing or approved barrier. The railing or barrier shall be constructed to prevent the child from crawling or falling through or becoming entrapped.
- (F) Approved safety gates at stairways and doors shall be provided and used as needed.
- (G) Protective outlet covers or twist-lock outlets shall be used in areas accessible to the children.
- (H) Heaters, floor furnaces, radiators, hot water heaters or other equipment which pose a threat to children shall meet the requirements of 19 CSR 30-62.087 Fire Safety.
- (I) All flammable liquids, matches, cleaning supplies, poisonous materials, medicines, alcoholic beverages, hazardous personal care items or other hazardous items shall be inaccessible to children.
- (J) Ammunition, guns, hunting knives, bows and arrows or other weapons shall be stored in a locked cabinet or locked closet.
- (K) *[Smoking shall be prohibited in child care areas and in food preparation and food service areas.]* **No person shall smoke or otherwise use tobacco products in any area of the child care facility during the period of time when children cared for under the license are present.**

*AUTHORITY: section 210.221[.1(3)], RSMo [Supp. 1998] 2000, and section 210.223, RSMo (HCS for SCS for SB 341, 98<sup>th</sup> General Assembly, First Regular Session (2015)).\* This rule previously filed as 13 CSR 40-62.071, 13 CSR 40-62.082 and 19 CSR 40-62.082. Original rule filed March 29, 1991, effective Oct. 31, 1991. Changed to 19 CSR 40-62.082, effective Dec. 9, 1993. Changed to 19 CSR 30-62.082 July 30, 1998. Amended: Filed Feb. 18, 1999, effective Sept. 30, 1999. Emergency amendment filed November 10, 2015, effective November 20, 2015, expires May 17, 2016. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*

\*Original authority: 210.221.1(3), RSMo 1949, amended 1955, 1987, 1993, 1995.